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CLARK & BRODY
1090 VERMONT AVENUE, NW
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WASHINGTON DC 20005

In re Application of: :
Takeo OHISHI et al :
Application Serial No.: 09/434,161 :
Filed: November 4, 1999 :
For: PACKET DATA RECORDING/REPRODUCING :
SYSTEM :

**DECISION
ON PETITION**

This is a decision on the Petition Under 37 CFR § 1.181 Request for Withdrawal of Premature Final Office Action filed March 21, 2005.

On June 15, 2004 a final Office action was mailed. In response thereto, petitioner filed a Request for Continued Examination (RCE) along with an amendment on September 15, 2004. Subsequently a final Office action was mailed on October 20, 2004. On March 21, 2005, a petition and fee for two months extension of time was filed along with a response to the final Office action of October 20, 2004.

Petitioner asserts that the final Office action mailed October 20, 2004 is premature in that the amended claims presented in the amendment filed September 15, 2004 were not the same as, or "drawn to the same invention claimed in the earlier application", and thus, a first action rejection cannot be made final prematurely.

A review of the application file reveals that a second Request for Continued Examination (RCE) was filed on April 20, 2005 along with a response and appropriate fee for extension of time. In the Remarks of the response filed April 20, 2005, it states that "This filing also effectively moots the petition to withdraw the finality of the outstanding final rejection, and said petition is hereby withdrawn."

Accordingly, the Petition is **DISMISSED AS MOOT**.

The application will be forwarded to the examiner for appropriate action in due course.

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